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FOREIGN SERVICE DESPATCH

FROM : AMEMBASSY TRIPOLI — DESP. NO. 166

TO : THE DEPARTMENT OF STATE, WASHINGTON. — DATE November 8, 1956

REF : ICATO 184, October 24; Embdesp 61, August 14; Deptel 53, August 1; Embtel 42, July 19, 1956

	ACTION	DEPT.
For Dept. Use Only	L	INFO RAIA REF NEA USMA E ICA 4-S
	REC'D 11-19	OTHER CIA

SUBJECT: Amendment to Technical Assistance Program Agreements

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Attention: Assistant for Treaty Affairs, Office of the Legal Adviser

JOINT EMBASSY-USOM/L MESSAGE

In unclassified telegram 42 of July 19, the Embassy requested advice as to whether the Technical Assistance Program Agreements might be amended by Note Verbale, which Embassy prefers because simplicity, or whether other form desirable or necessary." In secret telegram No. 53 of August 1, the Department replied in substance that the program agreements might be amended by Note Verbale and instructed the Embassy to proceed on that basis. Consequently, Notes were drafted and submitted for approval with despatch No. 61, under reference. We are now somewhat confused by the question posed in Paragraph 3 of ICATO 184: "Unless there are strong policy considerations which would indicate the desirability of an exchange of notes for the purpose of amending such program agreements, would it not be preferable simply to amend the two program agreements by diplomatic and operational agreements without an exchange of notes."

From the beginning, USOM/L and the Embassy had hoped and expected that the Program and Project Agreements, as distinguished from the General Agreement, would be regarded as operational and that they might be negotiated, signed, and amended as necessary by the Director of USOM/L with such clearance with ICA as the latter might require. However, in view of the fact that the Program Agreements are expected to continue for a period of five years, and because on the GOL side the signature of the Prime Minister was desired, the Director recommended that they be signed not only by himself and the various ministers but by the Ambassador and Prime Minister (then also Foreign Minister) as well. His recommendation was accepted and the Program Agreements were drawn up in the same formal style as the General Agreement.

The preparation of such formal documents is at best a time-consuming, tedious and complicated process and this fact should require no elaboration insofar as the Office of the Assistant for Treaty Affairs is concerned. In addition, the present Program Agreements require the signature of the Ambassador, the Foreign Minister, the Director of USOM/L and the Permanent Under Secretary of Finance. It was to obviate this complicated process that the Embassy suggested the use of Notes Verbale to amend the agreements since that form is infinitely simpler to prepare and requires only the initials of the Counsellor of Embassy (or the signature of the Ambassador in the case of a first person note).

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REVIEWED J.M. Raz DATE March 1978

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There is further compelling reason for the adoption of a simple form for the amendment of the agreements: We must assume that further, perhaps frequent, amendments will be required to cope with the organizational changes in the LibyanGovernment. As the Department and ICA are aware, the present amendments are required because of the desire of the Libyan Government to install the Permanent Under Secretary of Finance as over-all GOL coordinator and policy supervisor with the Directors General of the Ministries and the USOM Division Chiefs as Joint Service Co-Directors. Should the Government change, should the present Permanent Under Secretary for any reason vacate his position, or should various other organizational changes occur, it is conceivable, in fact likely, that the program agreements would again have to be amended.

As amendments to the Program Agreements are expected to be exclusively operational in nature, the Embassy and USOM/L recommend that the Director of USOM/L be authorized to amend the Program Agreements by operational agreement in the same manner as in the case of Project Agreements. If this recommendation cannot be accepted, then the Embassy recommends that it be authorized by the Department to use Notes Verbales (or first person notes) for the amendment of the Program Agreements.

For the Ambassador

Rodger P. Davies

Rodger P. Davies
Counselor of Embassy

cc: Benghazi